



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 26, 1996

Ms. Mercedes Leal
Senior Assistant County Attorney
Harris County
1001 Preston, Suite 634
Houston, Texas 77002-1891

OR96-0250

Dear Ms. Leal:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. That request was assigned ID# 38457.

Harris County (the "county") received a request for information concerning a complaint of a dog running loose that was filed with the county rabies/animal control office. The rabies/animal control office picked up the dog and apparently determined that it did not have a current rabies vaccination. The animal's owner was issued a citation for that dog and for three other dogs who also did not have current rabies vaccinations. You claim that identifying information about the person who filed the complaint is protected from disclosure under the informer's privilege as incorporated into section 552.101 of the Government Code.¹

Texas courts long have recognized the informer's privilege, *see Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928), and it is a well-established exception under the Open Records Act, Open Records Decision No. 549 (1990) at 4. For information to come under the protection of the informer's privilege, the information must relate to a violation of a civil or criminal statute. *See* Open Records Decision Nos. 515 (1988) at 2-5, 391 (1983). In *Roviaro v. United States*, 353 U.S. 53, 59 (1957), the United States Supreme Court explained the rationale that underlies the informer's privilege:

What is usually referred to as the informer's privilege is in reality the Government's privilege to withhold from disclosure the identity of persons who furnish information of violations of law to officers

¹Although you cited to section 552.108 of the Government Code, we note that the informer's privilege has generally been considered by this office to be an aspect of section 552.101.

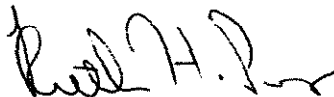
charged with enforcement of that law. [Citations omitted.] The purpose of the privilege is the furtherance and protection of the public interest in effective law enforcement. The privilege recognizes the obligation of citizens to communicate their knowledge of the commission of crimes to law enforcement officials and, by preserving their anonymity, encourages them to perform that obligation.

Although the "informer's privilege" aspect of section 552.101 ordinarily applies to the efforts of law enforcement agencies, it can apply to administrative officials with a duty of enforcing particular laws. Attorney General Opinion MW-575 (1982) at 2; Open Records Decision Nos. 285 (1981) at 1, 279 (1981) at 1-2; *see also* Open Records Decision No. 208 (1978) at 1-2. This may include enforcement of quasi-criminal civil laws. *See* Open Records Decision Nos. 515 (1988) at 3, 391 (1983) at 3.

You state that the complaint provided information about various violations of the county's rabies control rules, and that violation of those rules can result in criminal prosecution as a class C misdemeanor offense. You further state that the county's rabies/animal control office is in charge of enforcing the rabies control rules. Under these circumstances, we agree that the identifying information about the complainant, which you have marked, may be withheld from disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 38457

Enclosures: Submitted document

cc: Mr. K.C. Francis
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(w/o enclosures)